IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 199 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAIRMAN/MANAGING DIRECTOR, ONGC

Versus

JAGMOHAN SINGH RAWAT

Appearance:

MR RAJNI H MEHTA for Petitioner No. 1

Respondent No. 1 served

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 24/03/2003

ORAL JUDGEMENT

1. Heard learned Advocate for the petitioner.

2. This Revision Application is filed by original defendant against an order passed by the learned Civil

Judge (SD), Mehsana, on 5th of November,1999, below Application Exh.34 in Regular Civil Suit No.126/96. The present opponent filed the above said suit being Regular Civil Suit No.126/96, in the Court of Civil Judge (SD) at Mehsana. Vide Exh.34, the present opponent filed an Application under Order 6 Rule 17 and sought an amendment to the effect that the cause of action of this suit is the date on which the defendant had decided the case of the plaintiff i.e. 2nd of January, 1995 and that the cause of action for filing the suit had arisen on 2nd of January, 1995. The learned Trial Judge was pleased to allow the above said Application vide impugned order and directed the plaintiff to amend the plaint accordingly.

3. Learned Advocate for the petitioner vehemently argued that if the order as has been passed by the learned Trial Judge the whole cause of action has been changed and secondly according to learned Advocate for the petitioner, the Revision would be maintainable on the ground that if the order in favour of the revisionist is passed, the same would have disposed of the suit finally. Learned Advocate for the petitioner says that if the cause of action is not permitted to be changed and if the amendment application is dismissed and the suit would be barred by law of limitation and resultant effect of the same would be disposal of the suit. On that ground this Revision Application is maintainable.

4. Having considered the order impugned and the contentions raised by the learned Advocate for the petitioner, it is clear the resultant effect of the passing or non-passing of the orders so far as it relates to the final disposal of the suit is not envisaged by Section 115(1) of the Civil Procedure Code as amended by Act No.46/99. The proviso clearly establishes that had the order passed in favour of the revisionist, the suit would have been disposed of by the very said order. In the present case, even if the Application at Exh. 34 is rejected and the order is passed in favour of the petitioner, then also, the said order itself would not finally dispose of the suit and, therefore, this Revision Application is clearly falls within the ratio of the decision of this Court in the matter of P.V. JADEJA vs. YOGI CORPORATION, reported in 2002(3) GLR 2040.

5. Nothing observed in this order will come in the way of the petitioner to urge before the Trial Court that the suit was time barred and in fact the cause of action had not arisen as amended by the original plaintiff. When such contention is raised, the Trial Court shall decide the same according to merits.

6. In this view of the matter, this Revision Application stands dismissed as the same is not maintainable. Rule is discharged. No costs.

(J.R. Vora, J.)

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